

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 UNITED STATES OF AMERICA :
4 v. : CR 01-4 ERIE
5 KEVIN HENRY :
6 :

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8 Hearing in the above-captioned matter held on Monday,
9 April 23, 2007, commencing at 11:00 a.m., before the
10 Honorable Susan Paradise Baxter, at the United States
11 Courthouse, Courtroom B, 17 South Park Row, Erie,
12 Pennsylvania 16501.

13
14 For the United States of America:

15 Marshall J. Piccinini, Esquire
16 United States Attorney's Office
17 17 South Park Row, Rm. A330
18 Erie, Pennsylvania 16501

19 For the Defendant:

20 Thomas W. Patton Esquire
21 Federal Public Defender's Office
22 1001 State Street
23 1111 Renaissance Center
24 Erie, Pennsylvania 16501

25 Reported by Heather E. Nass
 Ferguson & Holdnack Reporting, Inc.

1 CLERK: The case before the Court is United States of
2 America versus Kevin Henry. It is docketed at Criminal No. 01-4
3 Erie. Representing the government is Marshall Piccinini.
4 Representing the Defendant is Thomas Patton.

5 JUDGE BAXTER: Good morning. Sorry it took me so long, but
6 I thought I was being directed to do the revocation hearing and
7 there's a little problem with authority there. Then we got it
8 straightened out. It was just not placed on the docket by Ms.
9 Wallen, and that was confusing for me.

10 MR. PICCININI: Your Honor, the purpose of today's hearing
11 is just, based upon the petition filed by Mr. Condi, just to
12 notify the Defendant of the charges against him, and then if he
13 wanted to have a preliminary hearing. It's my understanding
14 from my brief discussion with Counsel that Mr. Henry is not
15 challenging the probable cause for the purposes of today's
16 hearing. And once he's on notice today, obviously, has right to
17 counsel in the allegations against him. Judge Cohill has
18 scheduled a revocation hearing for Wednesday May 16th at 11:30
19 a.m.

20 JUDGE BAXTER: We would have just been able to go about 10
21 minutes ago if I had had that, which I did not. I thought I
22 was -- and, you know, magistrate judges do do those things and
23 then write reports and recommendations on them, but I was
24 confused as to the purpose of the hearing.

25 Mr. Henry, do you have a copy of the revocation

1 charges against you? You have the right to counsel, as you
2 know.

3 MR. HENRY: Yes.

4 JUDGE BAXTER: And you also have the right not to make any
5 statements at this hearing. I'm going to ask the U.S. Attorney
6 to describe the charges against you in this revocation
7 proceeding, unless Mr. Patton has reviewed those with you.

8 MR. PATTON: Your Honor, I've had a chance to review them
9 with Mr. Henry. We went over the petition prior to today's
10 date. Just under Rule 32.1B, Mr. Henry is entitled to a
11 preliminary hearing or the government would have to establish
12 probable cause that the violation occurred. Having discussed
13 with Mr. Henry his rights to have that, the government put the
14 efforts on. He's agreed to waive that, and we agree that there
15 is probable cause to proceed on the allegations in the petition,
16 and, ultimately, we'll appear in front of Judge Cohill.

17 JUDGE BAXTER: And the date and time of that is?

18 MR. PICCININI: Your Honor, it's May 16th, 2007 at 11:30.

19 JUDGE BAXTER: And that will be here?

20 MR. PICCININI: Yes, your Honor.

21 JUDGE BAXTER: Is there anything else, Mr. Piccinini?

22 MR. PICCININI: I don't believe so, Your Honor.

23 JUDGE BAXTER: Anything else, Mr. Patton?

24 MR. PATTON: No, Your Honor. I don't need to make a
25 finding that there is probable cause.

1 JUDGE BAXTER: You are going to waive the hearing.

2 MR. PATTON: Right. Do you have a waiver --

3 JUDGE BAXTER: Yes, we have a waiver form, we just have to
4 print it out.

5 MR. PATTON: Okay.

6 MR. PICCININI: Just so the record is clear, Mr. Patton is
7 going to execute a signed waiver for the preliminary hearing.

8 JUDGE BAXTER: That's correct.

9 MR. PATTON: That's fine.

10 JUDGE BAXTER: Because I can't make a finding on probable
11 cause if I don't know --

12 MR. PATTON: That's fine.

13 MR. PICCININI: And with regard to the Defendant's release,
14 he is in custody currently and Judge Cohill has already set a
15 \$5,000 cash bond.

16 JUDGE BAXTER: I saw that and I can't change that.

17 MR. PICCININI: Right.

18 JUDGE BAXTER: All right. And that's cash bond?

19 MR. PICCININI: Yes.

20 JUDGE BAXTER: We're adjourned. Thank you.

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22 (Hearing concluded at 11:05 a.m.)

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C E R T I F I C A T I O N

I, Heather E. Nass, a Court Reporter and
Notary Public in and for the Commonwealth of
Pennsylvania, do hereby certify that the foregoing
is a true and accurate transcript of my
stenographic notes in the above-captioned matter.

Notary Public

Dated: _____